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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/624,385 | 07/22/2003 | Justin R. Darnell | 2802-135-085 | 6824 |

7590 09/30/2004

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| EXAMINER |
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CHIESA, RICHARD L

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| ART UNIT | PAPER NUMBER |
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1724

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------|--------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/624,385 | DARNELL, JUSTIN R. | |
| | Examiner | Art Unit | |
| | Richard L. Chiesa | 1724 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8 and 11-17 is/are rejected.
- 7) ☒ Claim(s) 3,4,9 and 10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The filing date of the provisional application should apparently read --August 13, 2002--, and not "August 14, 2002".

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "24" has apparently been used to designate both the body of the inlet scoop piece and the outlet scoop piece in Figure 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: (A) The reference numeral "23" (page 6, line 30) should apparently be changed to --22--. (B) Reference numerals "23" and "24" are used incorrectly at various locations in the specification due to the duplicate usage of reference numeral "24" in Figure 2 as explained above in paragraph 2. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 16 is indeterminate because it apparently is duplicative of claim 12. It would appear that claim 16 should depend from claim 13 instead of claim 12.

Claim Rejections - 35 USC § 102/103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, 7, 8, 13, and 14 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Cochrane. Cochrane (note Figure 1) shows a fluid separator with a rib portion U, lip P', mouth W, receiving channel 48, drain tube Y, internal channel R, and fluid separation cavity X, W² as claimed (35 USC 102b). It would appear that Cochrane may not explicitly refer to reference letter Q as a receiving channel. However, a cursory inspection of Cochrane's Figure 1 indicates that flange Q receives and supports mouth W just like applicant's receiving channel. Consequently, it is inherent or at least would have been obvious to one of ordinary skill in the art (35 USC 103a) that Cochrane's flange Q is a receiving channel for mouth W in view of Cochrane's Figure 1.

8. Claims 6-8, 12-14, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cochrane in view of Trautmann et al. Cochrane, as described above in paragraph 7, discloses a fluid separator substantially as claimed. Apparently, Cochrane may not explicitly state water separation from air entering an internal combustion engine and that the scoop pieces are unitary. In any case, Trautmann et al (note Figures 1-3 and Abstract) teach the well-known use of water separation and unitary scoop pieces 13, 14 in a fluid separator for the purpose of ensuring a strong efficient assembly. It would have been obvious to one of ordinary skill in the art to employ water separation and unitary scoop pieces in the Cochrane fluid separator in order to produce a durable efficient assembly as taught by Trautmann et al.

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9. Claims 5, 11, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cochrane in view of Gieseke et al. The prior art, as described above in either one of paragraphs 7 or 8, discloses a fluid or water separator substantially as claimed with the apparent exception of attachment flanges and fasteners. Gieseke et al (note ref. num. 251, 253, 254, 261, Figs. 17-19, and col. 10, line 63 to col. 12, line 12) teach the well-known use of attachment flanges and fasteners in a fluid separation apparatus for the purpose of ensuring a strong compact assembly and for this same reason it would have been obvious to one of ordinary skill in the art to employ such an expedient in either one of the prior art fluid separators described above.

Allowable Subject Matter

10. Claims 3, 4, 9, and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. These references have been cited as art of interest to show other fluid separation systems.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard L. Chiesa whose telephone number is (571) 272-1154.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane S. Smith, can be reached at (571) 272-1166.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1700 receptionist whose telephone number is (571) 272-0987.

Facsimile correspondence must be transmitted through (703) 872-9306.

Richard L. Chiesa
September 29, 2004

Richard L. Chiesa

**RICHARD L. CHIESA
PRIMARY EXAMINER
ART UNIT 1724**

Sept. 29, 2004